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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10

11 Carmel Garcia, et al.,

12 Plaintiffs,

13 v.

14 Yuba County Sheriff's Department, et al.,

15 Defendants.  
16

No. 2:19-cv-02621-KJM-DB

ORDER

17 The City of Vacaville moves to dismiss the claims against it under 42 U.S.C. § 1983 and  
18 *Monell v. Department of Social Services*, 436 U.S. 658 (1978). This is a rare case in which the  
19 alleged need for adequate policies and training is so obvious that a single constitutional violation  
20 suffices to state a claim under § 1983. *See City of Canton v. Harris*, 489 U.S. 378, 389–90 &  
21 n.10 (1989). **The motion is denied.**

22 **I. BACKGROUND**

23 In the winter of 2017, Samuel Levi Yasko was working on a construction site with his  
24 brother and a friend. Second Am. Compl. ¶ 13, ECF No. 28. He seemed despondent, and he told  
25 his brother he was depressed and thinking about hurting himself. *Id.* ¶ 14. He also asked  
26 coworkers if they thought he was “crazy.” *Id.* Then he fell from a third-story balcony at the job  
27 site, possibly hitting his head. *Id.* His behavior was erratic after the fall. *Id.* ¶ 15. His brother  
28 and friend tried to convince him to go to the hospital, but he refused. *Id.*

1 After several hours, the three left together. *Id.* Yasko's erratic behavior continued on the  
2 way home. *Id.* ¶ 16. He tried to strangle himself with a seatbelt, forcing his brother and friend to  
3 stop and restrain him, but he soon worked himself free and again tried to strangle himself. *Id.*  
4 ¶¶ 16–17. They stopped at a gas station, and Yasko's friend called the police for help. *Id.* ¶ 17.  
5 He warned the dispatcher that Yasko was having a mental health crisis and was trying to commit  
6 suicide, and he explained he and Yasko's brother were trying to hold him down. *Id.*

7 When the first officer arrived, the two men told her Yasko was suicidal and unarmed.  
8 *Id.* ¶ 18. The officer told them to hold Yasko against the ground with pressure on his back. *Id.*  
9 A second officer arrived and immediately knelt on Yasko's back. *Id.* ¶ 19. Then a third officer,  
10 a sergeant, arrived and joined the other on Yasko's back. *Id.* ¶ 20. They decided to use a  
11 "WRAP" to restrain him. *Id.* A WRAP restraint is a total body restraint in the style of a cocoon.  
12 *See Cooke v. City of Stockton*, No. 14-00908, 2017 WL 6447999, at \*3 n.3 (E.D. Cal. Dec. 18,  
13 2017). It includes "an ankle strap, upper body harness, [and] a leg restraint." *Johnson v. Cortes*,  
14 No. 09-3946, 2011 WL 445921, at \*3 n.1 (N.D. Cal. Feb. 4, 2011). When a WRAP restraint is  
15 properly applied, it forces a person into "a seated position" with the "legs straight in front" and  
16 hands restrained behind the back. *Id.*

17 The sergeant went to his car to retrieve the WRAP restraint, and while he was gone, the  
18 other officers kicked or stomped on Yasko and shocked him with a Taser. Second Am. Compl.  
19 ¶ 20. When the sergeant returned with the restraint, three officers were pressing down on  
20 Yasko's back, with Yasko remaining prone on the ground. *Id.* ¶ 21. Yasko was a large man,  
21 more than 250 pounds and six feet tall, but the officers did not take precautions to avoid the  
22 dangers of asphyxia when placing their bodyweight on the back of an overweight person  
23 restrained in a WRAP device. *See id.* ¶¶ 19, 29–31. As the officers applied the WRAP restraint,  
24 Yasko stopped breathing. *Id.* Officers could find no pulse. *Id.* They called the paramedics, who  
25 took Yasko to the hospital. *Id.* ¶ 22. He fell into a coma and later passed away. *Id.*

26 Yasko's mother and children filed a lawsuit against the City of Vacaville, several of the  
27 individual officers who responded to the call, and others. *See* Compl., ECF No. 1. After the  
28 complaint was amended, the defendants moved to dismiss, and the court granted the motion. *See*

Prev. Order, ECF No. 27. The court dismissed the claims against the City because the complaint did not include factual allegations that, if true, permitted the court to infer, as the plaintiffs alleged, that Yasko's death was the result of (1) the City's failure to train its officers "how to deal with persons suffering from psychiatric or physical distress" or (2) the City's "longstanding custom and practice of not providing assistance to individuals suffering from psychiatric, psychological or physical distress." *Id.* at 10–12 (quoting Opp'n at 5, ECF No. 18). The court however granted leave to amend. The plaintiffs have now amended their complaint, and the City moves again to dismiss under Rule 12(b)(6). *See generally* Second Am. Compl.; Mot. Dismiss, ECF No. 29. The motion is fully briefed and the court submitted it without oral argument. *See* Opp'n, ECF No. 31; Reply, ECF No. 33; Minute Order, ECF No. 34.

## II. LEGAL STANDARD

A party may move to dismiss for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). The motion may be granted only if the complaint lacks a "cognizable legal theory" or if its factual allegations do not support a cognizable legal theory. *Godecke v. Kinetic Concepts, Inc.*, 937 F.3d 1201, 1208 (9th Cir. 2019) (quoting *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988)). The court assumes all factual allegations are true and construes "them in the light most favorable to the nonmoving party." *Steinle v. City & Cnty. of San Francisco*, 919 F.3d 1154, 1160 (9th Cir. 2019) (quoting *Parks Sch. of Bus., Inc. v. Symington*, 51 F.3d 1480, 1484 (9th Cir. 1995)). If the complaint's allegations do not "plausibly give rise to an entitlement to relief," the motion must be granted. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

A complaint need contain only a "short and plain statement of the claim showing that the pleader is entitled to relief," Fed. R. Civ. P. 8(a)(2), not "detailed factual allegations," *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). But this rule demands more than unadorned accusations; "sufficient factual matter" must make the claim at least plausible. *Iqbal*, 556 U.S. at 678. In the same vein, conclusory or formulaic recitations of elements do not alone suffice. *Id.* (quoting *Twombly*, 550 U.S. at 555). This evaluation of plausibility is a context-specific task drawing on "judicial experience and common sense." *Id.* at 679.

1           These same standards apply to claims against municipal governments under § 1983.  
2   *AE ex rel. Hernandez v. Cnty. of Tulare*, 666 F.3d 631, 637 (9th Cir. 2012). A plaintiff's  
3   allegations "may not simply recite the elements" of a claim under *Monell*. *See id.* (quoting  
4   *Starr v. Baca*, 652 F.3d 1202, 1216 (9th Cir. 2011)). The complaint must "contain sufficient  
5   allegations of underlying facts to give fair notice" of the plaintiff's claims and allow the  
6   municipal government "to defend itself effectively." *Id.* (quoting *Starr*, 652 F.3d at 1216). The  
7   plaintiff's allegations "must plausibly suggest an entitlement to relief, such that it is not unfair to  
8   require the opposing party to be subjected to the expense of discovery and continued litigation."  
9   *Id.* (quoting *Starr*, 652 F.3d at 1216).

### 10   **III. ANALYSIS**

11           Now, as before, Vacaville argues the complaint lacks factual allegations that, if true, could  
12   show it is liable under § 1983. To establish a municipality's liability under § 1983 and *Monell*,  
13   the plaintiff must ultimately prove a "policy or custom" deprived a person of a constitutional right.  
14   *Castro v. Cnty. of Los Angeles*, 833 F.3d 1060, 1073 (9th Cir. 2016) (en banc). The plaintiff must  
15   also show this policy or custom "reflects deliberate indifference to the constitutional rights" of the  
16   municipality's inhabitants. *Id.* (quoting *City of Canton v. Harris*, 489 U.S. 378, 392 (1989)). The  
17   policy, in other words, must reflect "a deliberate or conscious choice" among alternatives.  
18   *Canton*, 489 U.S. at 389 (quotation marks omitted).

19           Four types of policies or customs can support a claim against a municipal government  
20   under § 1983. First is an express policy: "a policy statement, ordinance, regulation, or decision  
21   officially adopted and promulgated." *Monell*, 436 U.S. at 690. The plaintiffs do not tie the  
22   policies or customs referenced in their complaint to any express statements or rules of this type.

23           Second, the Supreme Court has held that local governments can be liable under § 1983 for  
24   injuries caused by an official's decisions, even if not written or officially promulgated, but only if  
25   that official had "final policymaking authority" over "the action alleged to have caused the  
26   particular constitutional or statutory violation at issue." *McMillian v. Monroe Cnty., Ala.*,  
27   520 U.S. 781, 785 (1997) (quoting *Jett v. Dallas Indep. Sch. Dist.*, 491 U.S. 701, 737 (1989)).

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1 The plaintiffs do not allege that any official with final policymaking authority made a decision  
2 about the policies or customs listed in their complaint.

3 Third, relatedly, if “authorized policymakers approve a subordinate’s decision and the  
4 basis for it, their ratification would be chargeable to the municipality because their decision is  
5 final.” *City of St. Louis v. Praprotnik*, 485 U.S. 112, 127 (1988). The complaint also does not  
6 include allegations of this type.

7 This leaves the fourth category: custom and practice. The Supreme Court has held that “a  
8 plaintiff may be able to prove the existence of a widespread practice that, although not authorized  
9 by written law or express municipal policy, is ‘so permanent and well settled as to constitute a  
10 custom or usage with the force of law.’” *Id.* (quoting *Adickes v. S.H. Kress & Co.*, 398 U.S. 144,  
11 167–68 (1970)). A few “isolated or sporadic incidents” are not enough to prove a city has an  
12 unconstitutional custom or practice. *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996). A  
13 practice or custom must have “sufficient duration, frequency and consistency” that it has “become  
14 a traditional method of carrying out policy.” *Id.* “Proof of random acts or isolated events is  
15 insufficient to establish custom.” *Navarro v. Block*, 72 F.3d 712, 714 (9th Cir. 1995).

16 A “policy” of this fourth type can be a “policy of inaction.” *Connick v. Thompson*,  
17 563 U.S. 51, 61 (2011) (quoting *Canton*, 489 U.S., at 395 (O’Connor, J., concurring in part and  
18 dissenting in part)). For example, in *Oviatt v. Pearce*, a sheriff knew that some of the inmates in  
19 the county jail were “mentally impaired, that some did not speak English and were unlikely to  
20 know of their legal rights, and that some inmates were not in contact with their families or  
21 lawyers.” 954 F.2d 1470, 1476 (9th Cir. 1992). At least nineteen people had “sat in jail for  
22 periods of undetermined length after missed arraignments” over the past several years, but the  
23 Sheriff had adopted no procedures to keep track of people who missed court dates. *See id.* “The  
24 need for different procedures was so obvious that [the Sheriff’s] adamant refusal to take action  
25 amounted to deliberate indifference to the detainees’ constitutional rights.” *Id.* at 1478; *see also*  
26 *Berry v. Baca*, 379 F.3d 764, 773 (9th Cir. 2004). The local government therefore was  
27 susceptible to a § 1983 claim based on a policy of inaction. *See Oviatt*, 954 F.2d at 1478. The  
28 result was the same in *Fairley v. Luman*, for example, when a police chief decided not to adopt

1 any procedures to prevent people from being detained on the wrong warrant. *See* 281 F.3d 913,  
2 918 (9th Cir. 2002) (per curiam).

3 Another policy of inaction that can “serve as the basis for § 1983 liability” is a local  
4 government’s failure to train its police force. *Canton*, 489 U.S. at 379. The failure to train must  
5 reflect a deliberate or conscious choice to disregard constitutional rights. *Id.* at 389–91. The  
6 Supreme Court also has emphasized that “[a] municipality’s culpability for a deprivation of rights  
7 is at its most tenuous where a claim turns on a failure to train.” *Connick*, 563 U.S. at 61. As a  
8 result, in most cases, a plaintiff must show that a local government’s poorly trained employees  
9 repeatedly violated the constitutional rights of its citizens. *Board of Comm’rs of Bryan Cnty. v.*  
10 *Brown*, 520 U.S. 397, 409 (1997).

11 Here, the plaintiffs allege Vacaville had several customs and practices that amounted to  
12 unofficial policies, including policies of inaction and poor training. Many of these alleged  
13 policies are related to how police respond to people in mental health crises. For example, the  
14 plaintiffs allege Vacaville had a “policy to assign the nearest officer to respond to the scene  
15 involving a suspect dealing with a mental health crisis” regardless of whether the officer had  
16 training in how to respond to a mental health crisis. Second Am. Compl. ¶ 27. Plaintiffs allege  
17 the City allowed “its officers to physically engage the suspect having a mental health crisis  
18 without first having to take steps to de-escalate the situation.” *Id.* ¶ 28. They allege the City has  
19 a “widespread or longstanding custom and practice of not providing assistance to individuals  
20 suffering from psychiatric or psychological problems.” *Id.* ¶ 47. And they allege the City “did  
21 not adequately train its officers on how to engage with persons suffering from mental health  
22 crises for purposes of minimizing the use of force on such individuals.” *Id.* ¶ 33.

23 Other policies described in the complaint are related to what Vacaville permits its police  
24 officers to do when they are restraining someone. The plaintiffs allege, for example, that the City  
25 allows “multiple officers to apply pressure on a suspect in order to cuff that person” even when  
26 the person is overweight or suffering from a mental health crisis. *Id.* ¶ 29. They allege the City  
27 has a policy to use a WRAP restraint on non-violent people. *Id.* ¶ 48. They allege the City did  
28 not adopt any rules “to prevent or minimize the risk of positional asphyxia,” *id.* ¶ 30, especially

1 when officers use a WRAP restraint to restrain a person who is overweight, *id.* ¶ 29. And they  
 2 allege the City “did not adequately train its officers against the dangers of positional asphyxia in  
 3 connection with obese suspects placed in a prone position for long periods of time or in  
 4 connection with the WRAP.” *Id.* ¶ 32.

5 Although these allegations list several specific and relevant customs or practices, the  
 6 complaint does not include factual claims that would be necessary to infer that the City’s customs  
 7 or practices are so “permanent” and “well settled” that they carry the “force of law.”  
 8 *Praprotnik*, 485 U.S. at 127 (quoting *Adickes*, 398 U.S. at 167–68). Factual allegations such as  
 9 these are necessary to “plausibly suggest an entitlement to relief.” *Hernandez*, 666 F.3d at 637  
 10 (quoting *Starr*, 652 F.3d at 1216). The plaintiffs do not allege, for example, that the City has  
 11 often sent untrained officers to intervene when people are suffering from mental health crises.  
 12 Nor does the complaint list examples of the City’s officers’ using restrains in a way that led to a  
 13 tragedy like the one that befell Yasko and his family. As it stands, the complaint admits only the  
 14 possibility that Yasko’s death was not an “isolated or sporadic” tragedy. *Trevino*, 99 F.3d at 918.  
 15 A possibility is not enough under the Supreme Court’s decisions in *Iqbal* and *Twombly*. See  
 16 *Iqbal*, 556 U.S. at 678; *Twombly*, 550 U.S. at 557.

17 In arguing that Vacaville has an unconstitutional custom or practice, the plaintiffs lean  
 18 heavily on their allegation that “[b]ecause police departments regularly deal with persons  
 19 suffering from a mental health crisis, . . . police departments across the United States have  
 20 developed protocols to follow during such calls for service.” See Second Am. Compl. ¶ 25. If  
 21 proven, these allegations could show the need for a policy was obvious. But they would not show  
 22 Vacaville actually had a particular practice. Nor would they show this practice was adopted or  
 23 enforced with disregard to the rights of people in the midst of mental health crises. These are  
 24 essential elements of a § 1983 claim against a municipality. See, e.g., *Canton*, 489 U.S. at 388.

25 The same is true of the plaintiffs’ argument that when the Vacaville police were kneeling  
 26 on Yasko’s back that night, officers in other cities and counties had often been “held liable for  
 27 causing the death of subjects by placing too much weight on their torsos while prone.” Opp’n  
 28 at 7. The senselessness of what the City’s police allegedly did is beyond debate. See *Drummond*



1 *ex rel. Drummond v. City of Anaheim*, 343 F.3d 1052, 1061 (9th Cir. 2003) (“The officers  
2 allegedly crushed Drummond against the ground by pressing their weight on his neck and torso,  
3 and continuing to do so despite his repeated cries for air, and despite the fact that his hands were  
4 cuffed behind his back and he was offering no resistance. *Any* reasonable officer should have  
5 known that such conduct constituted the use of excessive force.” (emphasis in original)). But it is  
6 the City of Vacaville has moved to dismiss; its officers have not. And binding authority requires  
7 “allegations of underlying facts” about the City’s customs and practices before the court can draw  
8 inferences about the City’s liability for a longstanding or widespread custom or practice.  
9 *Hernandez*, 666 F.3d at 637 (quoting *Starr*, 652 F.3d at 1216).

10 That said, factual allegations about a pattern of similar violations are not always necessary  
11 to support a *Monell* claim. The “unconstitutional consequences” of inaction “could be so patently  
12 obvious that a city could be liable under § 1983 without proof of a pre-existing pattern of  
13 violations.” *Connick*, 563 U.S. at 64. This is true only “in a narrow range of circumstances.”  
14 *Id.* at 63 (quoting *Bryan Cnty.*, 520 U.S. at 409). The consequences of inaction must be “highly  
15 predictable” and “obvious.” *Bryan Cnty.*, 520 U.S. at 409. The failure must also have “led  
16 directly to the very consequence that was so predictable.” *Id.* at 409–10. Causation in the “but  
17 for” sense is not enough. *See id.* The Ninth Circuit also has suggested that the consequences of  
18 poor policies must be obviously dire, for example, if employees are “making life-threatening  
19 decisions.” *Benavidez v. Cnty. of San Diego*, 993 F.3d 1134, 1155 (9th Cir. 2021); *see also, e.g.*,  
20 *Long v. Cnty. of Los Angeles*, 442 F.3d 1178, 1189 (9th Cir. 2006) (medical care). But the  
21 Circuit’s decisions are not limited to life-or-death scenarios. *See, e.g., Kirkpatrick v. County of*  
22 *Washoe*, 843 F.3d 784, 794, 796–97 (9th Cir. 2016) (en banc) (removing children from their  
23 homes); *Lee v. City of Los Angeles*, 250 F.3d 668, 682 (9th Cir. 2001) (extraditing mentally  
24 incapacitated people).

25 When the Supreme Court first held that a single incident might support a poor training  
26 claim, it offered an example of a claim that might ultimately succeed: “a single incident of  
27 excessive force, coupled with evidence that a city had neglected to train its armed officers on the  
28 constitutional limitations on using force against fleeing felons, might establish that the city



1 manifested deliberate indifference in training law enforcement.” *Kirkpatrick*, 843 F.3d at 794  
 2 (citing *Canton*, 489 U.S. at 390 n.10). Since then, the Supreme Court has held that a district  
 3 attorney’s office is not liable under § 1983 for failing to train its prosecutors about the disclosure  
 4 requirements of *Brady v. Maryland* if all the plaintiff alleges is that those prosecutors wrongly  
 5 withheld exculpatory evidence in one case. *See Connick*, 563 U.S. at 63–68 (citing 373 U.S. 83  
 6 (1963)). Because attorneys receive extensive post-graduate education, take licensing exams, are  
 7 subject to ethical rules, must satisfy continuing education requirements, and are “familiar” with  
 8 *Brady*, it is not “obvious” that prosecutors will violate *Brady v. Maryland* if the training they  
 9 receive from their local government employer is inadequate. *See id.* The Court also has held that  
 10 a county was not liable under § 1983 for hiring an officer with a history of assault, battery,  
 11 resisting arrest, and public drunkenness when the plaintiffs, who asserted claims of excessive  
 12 force, did not cite other excessive uses of force by officers with similarly checkered histories. *See*  
 13 *Bryan Cnty.*, 520 U.S. at 409–15. It was not “obvious” that hiring an officer with a questionable  
 14 background like this would lead to excessive force, even if problems would be “more likely.” *See*  
 15 *id.* at 410–11 (emphasis omitted).

16 The plaintiffs’ allegations here show this action is one of the rare cases in which a local  
 17 government’s deliberate indifference may be inferred without allegations about a pattern of  
 18 similar violations. The allegations permit an inference of liability based on two types of  
 19 deliberately indifferent policy choices.

20 **First**, according to the complaint, the Vacaville Police Department regularly receives  
 21 “calls for assistance in connection with persons undergoing a mental health crisis” and, like other  
 22 police departments, is on “the front lines in dealing with mental health problems.” *Id.* ¶ 23.  
 23 Unlike these other Police Departments, however, Vacaville does not assign specially trained  
 24 officers to respond to calls about people undergoing mental health crises. *Id.* ¶ 25. Instead, the  
 25 plaintiffs say, the City had no policy at all “for dealing with suspects suffering from mental health  
 26 crises”; instead it sent untrained officers. *Id.* ¶ 27. They allege, for example, that the City  
 27 permitted its officers to “physically engage” a person in a mental health crisis without first  
 28 attempting to “de-escalate the situation.” *Id.* ¶ 28.

1           These allegations paint a plausible picture of deliberate indifference to the constitutional  
 2 rights of people suffering from mental health crises. Police officers are usually not mental health  
 3 experts. Nor can officers be expected to perform the duties of social workers or emergency  
 4 medical technicians. They cannot be expected to know what to do when they meet someone in  
 5 crisis, especially someone who is a danger to himself, to the police, or to others, as the plaintiffs  
 6 allege Yasko was here. When a person is injured, behaving erratically, and has recently  
 7 attempted suicide, an officer's decisions may mean the difference between life and death. If the  
 8 City truly has no policy to train its armed officers on what to do in these situations, as the court  
 9 must assume at this stage, it is plausible to infer that plaintiffs could prove Vacaville was  
 10 deliberately indifferent. Serious injuries and death are the obvious and highly predictable  
 11 consequences of sending untrained and armed officers to respond to mental health crises. *See*,  
 12 *e.g.*, *Kirby v. City of E. Wenatchee*, No. 12-0190, 2013 WL 1497343, at \*14 (E.D. Wash. Apr. 10,  
 13 2013) (denying summary judgment given “large body of municipal liability jurisprudence  
 14 shedding light on the issue of deliberate indifference in the context of tragic encounters between  
 15 police officers and mentally ill individuals”); *Dorger v. City of Napa*, No. 12-440, 2012 WL  
 16 3791447, at \*4 (N.D. Cal. Aug. 31, 2012) (denying motion to dismiss based on allegations of  
 17 city's “failure to train officers who might come into contact with individuals in mental health  
 18 crisis or otherwise diminished mental capacity”); *Newman v. San Joaquin Delta Cmty. Coll. Dist.*,  
 19 814 F. Supp. 2d 967, 978 (E.D. Cal. 2011) (“[T]he failure to have *any* continuing education  
 20 training on handling mentally ill people and the failure to address the issue *at all* in the police  
 21 manual creates at least triable issues with respect to whether [the local government's] failure to  
 22 train amounted to deliberate indifference . . . .” (emphases in original)).

23           ***Second***, the complaint permits a plausible inference that Vacaville is liable for having no  
 24 policy about how officers may apply their bodyweight to the back of a person lying prone on the  
 25 ground. *See* Second Am. Compl. ¶ 29. Officers cannot reasonably be expected to understand the  
 26 dangers of “positional asphyxia” without any training. *See id.* ¶ 30. The plaintiffs allege those  
 27 dangers are acute when, as here, the person is overweight, handcuffed, and restrained in a WRAP  
 28 device. *See id.* ¶¶ 29–30.

1           These allegations are a close analogy to the Supreme Court’s hypothetical in *Canton*.  
2       When inferences are drawn in the plaintiffs’ favor, as again they must be here, it is plausible to  
3       conclude that Vacaville knows “to a moral certainty” its officers will be required to restrain  
4       people. *See* 489 U.S. at 390 n.10. Officers are likely to use their bodyweight along with the  
5       handcuffs and WRAP restraints the City arms them with “to allow them to accomplish this task.”  
6       *Id.* Police are likely to encounter some suspects with health conditions, such as their weight, that  
7       put them at greater risk of injury or death, so the force in question may be lethal. *See id.* As a  
8       result, “the need to train officers in the constitutional limitations on the use of deadly force” in  
9       these circumstances “can be said to be so obvious that the failure to do so could properly be  
10      characterized as deliberate indifference to constitutional rights.” *Id.* (quotation marks omitted).  
11     Similar allegations and evidence have supported “single incident” claims like those the plaintiffs  
12     assert here. *See, e.g., Briones v. City of Ontario*, No. 17-0590, 2018 WL 6017037, at \*11 (C.D.  
13     Cal. May 21, 2018) (denying summary judgment of similar claims based on single incident and  
14     local government’s policies on dangers of positional asphyxia).

15           Both of Vacaville’s alleged policies also satisfy the relevant causation standard, i.e., “a  
16     direct causal link between a municipal policy or custom and the alleged constitutional  
17     deprivation.” *Castro*, 833 F.3d at 1075 (quoting *Canton*, 489 U.S. at 385). If the City had trained  
18     its officers “to not escalate the situation, to avoid using physical force, to not rush the situation  
19     . . . , to keep a safe distance . . . , and, if necessary, to reach out to mental health professionals,” as  
20     the plaintiffs allege it should have, Second Am. Compl. ¶ 26, then officers would not have  
21     immediately placed their weight on Yasko’s back and restrained him in a WRAP restraint. And if  
22     the Vacaville had trained its officers how to use handcuffs and the WRAP restraint safely on an  
23     overweight subject, as the plaintiffs allege it should have, *see id.* ¶¶ 29–30, then Yasko would not  
24     have asphyxiated.

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1 **IV. CONCLUSION**

2 The motion to dismiss is **denied**. Responsive pleadings must be filed **within twenty-one**  
3 **days**. This order resolves ECF No. 29.

4 IT IS SO ORDERED.

5 DATED: October 22, 2021.

  
\_\_\_\_\_  
CHIEF UNITED STATES DISTRICT JUDGE